



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

343 COURTLAND STREET
ATLANTA, GEORGIA 30365

4RC

June 2, 1982

Mr. Lloyd R. Cress
Greenbaum, Doll & McDonald
600 Merrill Lynch Plaza
Post Office Box 1808
Lexington, Kentucky 40593

Re: Interim Status of Ashland Chemical Company
Bulk Plants in Region IV

Dear Mr. Cress:

This is to confirm our telephone conversation of Friday, May 21, 1982, in which we cancelled the May 24th meeting the purpose of which was to discuss the ability of Ashland Chemical's bulk plants to attain interim status. The reason for such cancellation is that we are inclined to concur with the position set forth in your memorandum in a general hypothetical way. However, before we can provide a definitive response, we must evaluate the individual circumstances surrounding the operation of each of the particular bulk plants in question.

Therefore, Ms. Arlene Hendrickson at Ashland Chemical Company should contact Dan Thoman in our Residuals Management Branch (404/881-3067) in order to clarify the precise details for each bulk plant. After such clarification, we can proceed to provide you with the definitive response that you are seeking. If you have any questions in this regard, please do not hesitate to contact me.

Sincerely yours,

Keith M. Casto

Keith M. Casto
Attorney
Office of Regional Counsel

cc: Alex Barber (w/attachments)
Director, Division of Hazardous Waste Management
Kentucky Department for Natural Resources and
Environmental Protection

(2) The owner or operator must have complied with the requirements of Section 3010(a) of RCRA regarding notification of hazardous waste activity; and

(3) The owner or operator must have complied with the requirements of 40 CFR 12.22(a) and (c) regarding submission of Part A applications.

Since the IC&S plants in Region IV clearly satisfy the first two conditions, the only issue as to their interim status involves their submission of Part A applications.

On November 19, 1980, EPA amended 40 CFR 122.22(a)(1) to clarify that Part A applications need only be submitted within thirty days after the date they first became subject to Parts 264 and 265 rather than by November 19, 1980. In explanation EPA pointed out that a facility which handled hazardous waste prior to November 19, 1980 but was not required to apply for a permit because of a regulatory exemption could qualify for interim status if the owner or operator filed a Part A application within 30 days after losing the exemption. The example provided by EPA was the commencement of on-site storage beyond the 90-day accumulation period.

On December 10, 1981, EPA issued a RIM published in 46 F.R. 60446 further interpreting the interim status requirements of RCRA. In the December 10, 1981 RIM, EPA specifically acknowledged that facilities could qualify for interim status by filing Part A applications after November 19, 1980 "after a change in the facility's own operations after November 19, 1980 brings it within the hazardous waste management system." EPA emphasized that interim status could be achieved only by those owners or operators who were engaged in the activity "on or before November 19, 1980".

CONCLUSION

Since Ashland Chemical Company's IC&S bulk plants had engaged in the drum storage of hazardous wastes prior to November 19, 1980, they are not precluded from qualifying for RCRA interim status if they file a revised Part A permit application within 30 days of finding it necessary to conduct operations in such a manner as to trigger the permit requirement for drum storage of hazardous waste.